

March 19, 2003

CHIEF STATE ELECTION OFFICIALS

This letter describes the process to be used by the General Services Administration (GSA) to carry out our responsibilities under Title 1 of P.L. 107-252, the Help America Vote Act ("the Act"). The Act tasks GSA with responsibility for disbursing funds to the States, the District of Columbia and the Territories to implement various improvements to the Federal election process, including the replacement of voting equipment. The letter also provides information, general guidelines, and timelines to apply for the available funding. (Throughout this letter the term "State" includes the District of Columbia and territories, except as otherwise stated.)

Summary of the Legislation

In Title I, Section 101 of the Act, the Administrator of GSA is required to establish a program that will distribute funds to all 50 States, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and American Samoa for the purpose of improving the administration of elections for Federal office. In Section 102, the Administrator of GSA is required to make a payment to each eligible State in which a precinct, within that State, used a punch card voting system or lever system to administer the regularly scheduled general election for Federal office held in November 2000. These two programs are not grants. The Consolidated Appropriations Resolution, Public Law 108-7, included \$650 million in funding for Election Reform Payments.

States must notify the Administrator by April 29, 2003 (6 months from enactment of the Act, which was October 29, 2002) whether they will accept funding in accordance with the guidelines set forth in Sections 301 and 906.¹ Section 301 sets standards for voting systems (equipment) and Section 906 deals with compliance with other relevant legislation, such as, the Voting Rights Act of 1965.

Roles and Responsibilities of GSA

GSA must develop two programs in accordance with Sections 101 and 102 of the Help America Vote Act of 2002. GSA is authorized to retain a total of \$500,000 for its internal costs of administering the program. The funds will be taken equally from Sections 101 and 102.

¹ Compliance with Section 301 is not required in order to receive funding under Section 101. States must comply with Section 906 to get funding under either section 101 or 102.

Section 101

The first program, described in Section 101, will disburse one-half of the \$650 million (\$325 million) authorized amount to each State in which the Chief Executive Officer of the State, or designee, in consultation and coordination with the Chief State Election Official, notifies the Administrator by April 29, 2003 that the State intends to use the payment to carry out one or more of the activities listed below (see implementation plan for instructions on how to submit your notification).

- Complying with the requirements of Title III of the Act;
- Improving the administration of elections for Federal office;
- Educating voters concerning voting procedures, voting rights, and voting technology;
- Training election officials, poll workers, and election volunteers;
- Developing the State plan for requirements payments to be submitted under Part 1 of Subtitle D of Title II (Sections 251-257) of the Act;
- Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for the casting and counting of votes;
- Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing non-visual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language; and/or
- Establishing a toll-free telephone hotline that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specified polling place locations, and other relevant information.

For this program, GSA will calculate the amount of funding that each State receives under the guidelines specified in Section 101. Step one of two will give one-half of one percent of the \$325 million to each State and the District of Columbia (\$1,625,000) and one tenth of one percent of the total (\$325,000) to Guam, Puerto Rico, the U.S. Virgin Islands and America Samoa. The total distributed under step one is \$84,175,000.

The second step will allocate funds from the \$325 million not allocated in the first step (totaling \$240,825,000) based on each State's proportionate share of the voting age population as reported in the 2000 Census. The sum of the funds allocated in the first step and the second step equals \$325 million.

Section 102

The second program, described in Section 102, will disburse the remaining \$325 million to the States. A State is obligated to use the funding (either directly or as a reimbursement for costs incurred on or after January 1, 2001) to replace punch card voting systems or lever voting systems in precincts within that State that used such systems in the November 2000 election ("qualifying precincts"). A State that receives

funding for this program must ensure that all of the punch card voting systems or lever systems in the qualifying precincts within that State will be replaced in time for the regularly scheduled general election for Federal office to be held in November 2004 (unless a waiver is obtained under Section 102(a)(3)(B)).

A State is eligible to receive a payment under this program if it submits to the Administrator by April 29, 2003, an application that contains the following (see implementation plan for instructions on how to submit your notification):

- Certifications that the State will use the payment to replace punch card voting systems or lever voting systems in the qualifying precincts within the State by January 1, 2004;
- Certifications that the State will continue to comply with current voting laws stated in Section 906;
- Certifications that the replacement voting systems will meet the requirements of Title III, Section 301;
- The number of qualifying precincts in the State; and
- Other information and certifications as the Administrator may require which are necessary for the administration of the program.

For this program, funding is calculated as follows: first, \$4000 is allocated to each State for each precinct that used punch card or lever voting machines in the 2000 election as certified by the State. The State totals may be reduced on a pro-rata basis so that the nationwide total of funds allocated will not exceed \$325 million. Based on previous participation assumptions, the Congressional Research Service estimates that each State will receive approximately 83.84% of the total it would have otherwise received due to the \$325 million cap. As a result, instead of receiving \$4000 per qualifying precinct, States will receive approximately \$3,354 per precinct.

Section 103

Section 103 of the Act guarantees that each State will receive a minimum payment of \$5 million and each territory will receive a minimum payment of \$1 million. If a State were to receive less than \$5 million (or a Territory less than \$1 million) for both programs, based on the calculations described above, that State's or Territory's payment will be increased to the minimum. The remaining States' payments under Sections 101(d) and 102(c) will be reduced so that the total does not exceed the \$650 million authorized by Section 104.

Implementation Plan

GSA, Office of Financial Management Systems, will develop a website for applying for payments under the Act. The website will establish a 7-step process that allows States to submit their information to receive and report on funding:

- Step One – Registration. The State will enter contact information including name, address and email address. Once the information has been verified, GSA will establish and issue a user ID and password to access the web site. The user ID and password will be emailed to the States. The Web site address is:

<http://www.finance.gsa.gov/helpamericavote>

- Step Two – EFT Setup. The State will use the user id and password, issued in step one, to access the web site. Banking information required for an Electronic Funds Transfer (EFT) will be submitted. All funds will be disbursed via EFT.
- Step Three – Certification. The request must provide certification that the State will use funds in accordance with current law and guidelines stated in Sections 301 (if applicable) and 906. States may not receive funding unless they adhere to those stated guidelines. If a State is requesting reimbursement, it must also submit certification that its current voting machines are consistent with the guidelines stated in Sections 301 and 906.² During this step the State will submit information about the number of qualifying precincts. States may elect to make an initial application for Section 101 funding only and later amend their application to request Section 102 funding, as long as they do so by April 29, 2003.
- Step Four – Minimum disbursements. After steps one, two, and three are completed and approved, the minimum payment amount under Section 103 will be issued, \$5 million for each State and \$1 million for each territory. When processed, the funding will be disbursed by the Department of Treasury, via Electronic Funds Transfer (EFT), and deposited directly into the bank account specified in step two. States are encouraged to establish the Election Fund described in Section 254(b)(1) of the Act, and to deposit funding received under Title I into this account. Section 104(d) of the Act requires that when a State has established an election fund described in Section 254(b), the State shall ensure that any funds provided to the State under this title are deposited and maintained in such fund.
- Step Five – Final disbursement calculations. After all applications are received, the calculations under Sections 101 and 102 will be performed. This step will occur after the April 29, 2003, application cutoff.
- Step Six – Final disbursements. A second payment will be issued to States qualifying for more than the minimum payment. This step will occur by May 31, 2003. The funding will be disbursed by the Department of Treasury, via Electronic Funds Transfer (EFT), and deposited directly into the bank account specified in step two.

² States that do not request funds under Section 102 only need to provide certification of compliance with Section 906.

- Step Seven – Reporting. Each funding recipient will be required to submit verification of actual purchases. Information regarding actual funds expended will be reconciled against funding provided. This information will be provided to the Election Assistance Commission once they become operational. Although exact reporting requirements have not been established yet, States are advised to track spending by Sections 101 and 102 categories.

Schedule

- No earlier than April 1st and no later than April 7th, States will be able to access an on-line application at <http://www.finance.gsa.gov/helpamericavote>;
- No later than April 29, 2003 all States must complete and submit their application;
- Minimum payments will be issued as applications are approved;
- By May 31, 2003, final payments will be issued to States receiving more than the minimum payment; and
- By January 21, 2004, States will provide reports on actual expenditures as of December 31, 2003. (Reporting dates subject to change by the Election Assistance Commission.)

Audits

Title IX, Section 902, states that with respect to any grant or payment made in accordance with this Act by GSA, the Election Assistance Commission must be regarded as the office making the grant or payment, for the purposes of audits.

If you have any questions or comments, please feel free to contact me at (202) 501-0719, or Stephen Kulenguski at (202) 501-4496. We look forward to working with you.

Sincerely,

Deborah J. Schilling
Director of Budget